

## Sands shifting beneath our feet

At a Lister Hill Library weekly managers meeting, Jay Harris, assistant director for collection management, brought in a letter he had received the day before from Elsevier Science that stated:

An article in a recent issue of *Human Immunology* . . . included certain statements that the American Society of Histocompatibility and Immunogenetics (ASHI, the owner of the journal), the Editor-in-Chief, and we as Publisher found were entirely inappropriate for articles published in this journal. . . . All electronic versions of the article are no longer available. . . . We would like to advise you either ignore the article in question . . . or, preferably, to physically remove the relevant pages. [1]

Coincidentally, this letter came not far on the heels of the Ari Fleischer/Bill Maher contretemps in which Fleischer, speaking for the White House, castigated Bill Maher, host of *Politically Incorrect* (a satirical late-night television show), for making what Fleischer felt were inappropriate comments. Fleischer said that "Americans should watch what they say, watch what they do" in the immediate aftermath of the attacks of September 11. Some political analysts expressed concern over the implications of Fleischer's "watch what they say" comment, and those words disappeared from the official White House transcript. They were only restored several weeks after the fact [2, 3]. The future may be as impenetrable as ever, but we have reached the point where it is fairly easy to rewrite the past.

In 1986, the National Library of Medicine (NLM) developed its Retraction of Publication policy. Considerable attention had been brought to the issues of scientific fraud and misconduct, and many journals were attempting to be more scrupulous about pointing

out when the science in a published article should no longer be trusted. NLM was concerned that articles, which had been retracted, would still show up in MEDLINE searches, and readers would be unaware that articles they were pointed to were suspect. So the "retraction of publication" tag was developed, and MEDLINE records were modified to indicate that articles had been retracted [4]. Many libraries went to the trouble of putting stickers on retracted articles to alert readers to potential problems.

The Elsevier Science letter signaled that a new era has been reached. It was unusual enough to result in news items in *The Chronicle of Higher Education* and *Nature* [5, 6]. No one conceived of the possibility, back in 1986, that retracted articles could simply be erased. Once an article was published, it was out in the world, and anyone engaged in damage control had to assume that it would always be out in the world. There have, of course, been cases where books have been seized, withdrawn, and pulped. But in the print world, those actions have never been entirely successful and, in most cases, have served largely to bring attention to the offending publication.

It was noteworthy in the *Human Immunology* case that there was no claim of scientific inaccuracy. The letter to subscribers was vague, implying only that some members of ASHI objected to statements made in the article. The piece in question [7] dealt with the genetic makeup of Palestinians, Jews, and other Mediterranean populations—certainly a topic loaded with potential for strong reactions on all sides. It is easy to imagine the readers, focused on the science, paying little attention to the context provided in the article. Only when some readers looked at the broader context

did a firestorm arise. The next issue of *Human Immunology* included a brief note from the president of the society, along with a message from the editor of the journal, apologizing for having let the article slip through and promising to change procedures to ensure that such a thing would not happen again [8, 9]. In the print world, this would have been their only recourse. In the electronic world, however, they could take an additional step and attempt to erase the article altogether.

Eliminating all traces of it, of course, is not possible. In ScienceDirect, for example, the pagination must be accounted for. So in the table of contents for the September 2001 issue, this entry appears: "Article has been withdrawn by the American Society for Histocompatibility and Immunogenetics (the copyright owner), the Editor and the Publisher, and will not be available in electronic format, pages 889-900" [10]. No reason is given. Readers who rely solely on ScienceDirect would be unable to make an independent judgment about the appropriateness of including or not including the article.

NLM treats it as a normal retraction of publication, and, in MEDLINE, the original citation appears, along with the abstract and the normal retraction notifications. According to Sheldon Kotzin, chief, Bibliographic Services Division, at NLM, "we never, for an instant, considered not putting this citation in MEDLINE" [11].

In November, there was some discussion of the article on the electronic discussion list of the Association of Academic Health Sciences Libraries (AAHSL). While only a few of the members chimed in, those who did were unanimous that they did not feel that it was appropriate to remove the article. Indeed, some commented that they

had made backup copies to put on reserve, in the event that some patrons took it upon themselves to carry out the dictum to purge the piece. In at least two cases, however, the instruction was carried out by library staff members who opened the mail. Those libraries were attempting to replace the article via interlibrary loan.

I wrote to Dolly B. Tyan, Ph.D., the president of ASHI at the time the decision was made, inviting her to comment for this editorial. In that letter, I said:

The right of the association to publish what it sees fit is, of course, paramount. However, once something is in the published record, many would argue that it no longer belongs solely to the association. It is now a matter for the entire scholarly community and it is a matter of history. To go into the published record and attempt to pull something back, to prevent people from reading it, to erase it, in effect, as if it had never appeared, is deeply disturbing to many of us. In the present print/electronic milieu, librarians can control what is removed from the print publication, but, despite our licensing agreements, we have no control over the article's withdrawal from ScienceDirect. As we move toward a time when the publication of record is the electronic one, the ability of the scholarly community to control the published record may be diminishing. [12]

Although I did not hear back directly from Dr. Tyan, my letter did result in a telephone call from Paul W. Taylor, senior publishing editor with Elsevier Science, and signatory of the original letter to subscribers. Mr. Taylor wanted to reassure me that Elsevier Science meant nothing untoward by its action. On further reflection, he said, they might have handled the situation differently. Under the circumstances, however, they received a request from a client and did their best to cooperate.

In his letter to subscribers and in

his conversation with me, Mr. Taylor noted that the article was withdrawn by "the copyright owner." This identifies the society as the locus of responsibility for the decision. It also, however, implies a legal justification—that the copyright owner controls articles after publication to such an extent that they can require that they be made to cease to exist. In the case of printed publications, this is simply not true (at least, under U.S. copyright law). The right of first sale makes it clear that once a physical copy of a work has passed into a buyer's hands, the copyright owner no longer controls that physical copy. So ASHI can request that we remove the article from the issue, but they have no legal basis on which to require that we do so. But the electronic version may be a very different matter. It seems reasonable that the contracts between Elsevier Science and the societies with whom they work would include language giving the journal owners the right to remove, amend, or otherwise alter electronic publications that appear under their name. When ASHI asked its publisher to remove the article from ScienceDirect, Elsevier Science was trying to do no more than be a cooperative business partner. Of course, this has nothing to do with copyright. It is simply a matter of the terms of the agreement between ASHI and Elsevier Science.

What about *our* agreements with Elsevier Science, however? We have here the equivalent of a publishing representative showing up in the library with a razor in hand saying, "Oops, sorry; didn't mean to publish that article, need to take it back," and slicing out the offending pages. This sounds absurd with regard to print, but our agreements regarding ScienceDirect are also governed by contract law, and the protections of copyright are not available to us in this instance. We may need to develop language to cover this sort of case in the future,

but, for the present, libraries probably do not have any recourse.

The situation is likely to arise again. Mr. Taylor sent me a copy of Elsevier Science's "Policy on Article Withdrawal." The policy states that "very occasionally circumstances may arise where an article is published that must later be withdrawn" [13]. The examples given include legal obligations, infringements of professional ethical codes, and "identification of false or inaccurate data that, if acted upon would pose serious danger to human life." These represent many of the same circumstances that would currently be handled by a standard Retraction of Publication. Under this policy, Elsevier Science could handle these sorts of situations by making the article go away. At first glance, there is something appealing about this. Consider the case of false data, data that could lead to dangerous conclusions, if they were to be acted upon in clinical situations. Surely, one could argue, it would be better for everyone if articles with such data were simply removed. That option was not available to us in the past; now that it is, should we not take advantage of it?

Perhaps. But the same electronic tools that give us the ability to erase an article, also give us the means to make sure that retractions are brought to the attention of readers. In the print world, we have had to rely on obsessive librarians *post hoc* identifying articles that should not be trusted. Now, in electronic databases, commentary and concerns can be easily incorporated. Surely, this is a sounder way of handling such situations. Maintaining the accuracy of the historical record is fundamental to the success and advancement of science. Just because we *can* make an article disappear does not mean that we ought to, particularly if there are alternative means for achieving the same good ends.

I did a presentation a couple of

weeks ago, and the woman introducing me referred to me as an "informationist." I was talking about consumer information on the Internet, and she was trying to put a hip, high-tech spin on what I do. I gently corrected her, "I am, to the very core of my professional identity, a Librarian. Here, in the early days of the 21st century, that means I am as tightly linked to that Sumerian scribe of seven thousand years ago, organizing the clay tablets with the season's wheat counts as I am to the most forward thinking cyber-visionary profiled in the pages of *Wired* magazine." We must never forget that the preservation of the historical record, with all of its faults, mistakes, and corrections, is an essential part of the service that librarianship performs for society. As the medium of information becomes more elusive, we must become more vigilant.

As Mr. Taylor noted in his conversation with me, we are all on unfamiliar ground here, and I am sure that everyone involved was trying to do "the right thing." The leaders of the society were trying to correct what they felt was a serious mistake in publishing the article in the first place, and Elsevier Science was trying to do right by one of their clients. To the extent that this incident sets a precedent, however,

it may have taken us a step down a road that will serve us all ill in the long run.

### Getting ready for MLA '02

By the time you read these words (in whichever format), the annual meeting of the Medical Library Association, to be held in Dallas, Texas, from May 17 to 23, will be only weeks away. In these fascinating, changing times, we can best stay sharp and creative by listening to and working with our colleagues from all over the world. I encourage all of you to attend the meeting and avail yourselves of the many section-sponsored programs that you will find there. The best thinking of our profession will be very much in evidence.

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